



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,811	04/18/2005	Werner Schroeder	L-402	3672

7590 10/23/2006
Elliott N Kramsky
5850 Canoga Avenue
Suite 400
Woodland Hills, CA 91367

EXAMINER

SHAH, SAMIR M

ART UNIT	PAPER NUMBER
2856	

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/531,811	Applicant(s) SCHROEDER, WERNER	
	Examiner Samir M. Shah	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 7 is/are rejected.
- 7) ☒ Claim(s) 2-6 and 8-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Note, the Examiner on this case has been changed.

Response to Arguments

2. Applicant's arguments, see pages 2-5, filed 7/31/2006, with respect to the rejection(s) of claim(s) 1, 2, 7 and 8 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Schroeder (US Patent Application Publication 2006/0201233 A1 henceforth "Schroeder").

Drawings

3. Figure 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities:

Art Unit: 2856

- (a) On page 9, line 16, delete "the a schematic" and replace it with --the schematic--.
- (b) On page 9, line 19, delete "control unit 28" and replace it with --regulator 28-- to be consistent with Figure 1.
- (c) On page 10, lines 1-2, delete "force that that corresponds" and replace it with --force that corresponds--.
- (d) On page 10, line 19, delete "as small as" and replace it with --as small as--.
- (e) On page 10, lines 23-24, delete "added tot he signal" and replace it with --added to the signal--.
- (f) On page 12, line 16, delete "resulting form the" and replace it with --resulting from the--.
- (g) On page 13, line 6, delete "a disturbance signals" and replace it with --disturbance signals--.
- (h) On page 14, line 2, delete "demodulated form the" and replace it with --demodulated from the--.

Appropriate correction is required.

Claim Objections

5. Claim 4 recites the limitation "the disturbance frequency" in last line of the claim. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

Art Unit: 2856

unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1, 4 and 7 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3 and 7 of copending Application No. 10/553,268 (henceforth "Schroeder '268"). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

As to claims 1 and 7, Schroeder '268 discloses "at least one natural oscillation of the resonator is stimulated, which differs from the stimulating oscillation and from the read oscillation of the resonator" which implies that stimulation oscillation, which is "at least one natural oscillation of the resonator", is changed ("stimulated") and thus the changed stimulation oscillation will differ "from the stimulating oscillation and from the read oscillation of the resonator". Moreover, Schroeder '268 discloses "a change in a read signal which...results from the stimulation of at least one natural oscillation is...a

Art Unit: 2856

measure of the zero error" (in claim 1) or "disturbance component...contained in a read signal...produced by the stimulation of the at least one natural oscillation...a measure of the zero error" (in claim 7). However, since the "stimulation of at least one natural oscillation" is caused due to a partial component (part) of the disturbance force, it is obvious that the change in the read signal (disturbance component) is produced by a partial component (part) of the disturbance force. Also, it is obvious that "zero error" corresponds to zero-point error in the instant invention.

8. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Allowable Subject Matter

9. Claims 2-6 and 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


10. The prior art made of record and not relied upon, cited in the attached 892 form, is considered pertinent to applicant's disclosure.


Art Unit: 2856

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samir M. Shah whose telephone number is (571) 272-2671. The examiner can normally be reached on Monday-Friday 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Samir M. Shah
Art Unit 2856
10/18/2006


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800